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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

11 In re Bk. No. 10-35925-C-7

12 SCOTT ALLEN BROWN AND JULIE Motion No. PPR-1
13 SIERRA BROWN FDBA JULIE
14 BROWN CHILDCARE CHAPTER 7

15 Debtors

Hearing-
Date : October 19, 2010
Time : 9:30 AM
Place : U.S. Bankruptcy Court
501 I Street
Sacramento, CA
Courtroom 35 Dept. C
Judge: Christopher M. Klein

16 JOHN W. REGER,

17 Trustee,

18 _____ /

19
20 U.S. BANK, N.A., ITS SUCCESSORS AND/OR ASSIGNS'
21 MOTION FOR RELIEF FROM AUTOMATIC STAY

22
23 U.S. Bank, N.A., its Successors and/or Assigns, a holder in due course, its
24 assignees and/or successors, move the Court for relief from the Automatic Stay provided by 11
25 U.S.C. §362. This motion seeks an Order terminating the Automatic Stay of 11 U.S.C. §362 as
26 to moving party (and the Trustee under the Deed of Trust securing moving party's claim) so that
27
28

1 moving party (and its Trustee) may commence and continue all acts necessary to foreclose
2 under the Deed of Trust secured by Debtors' property.

3 Movant seeks relief pursuant to 11 U.S.C. §362(d)(1) for "cause" due to the
4 failure of Debtors to make required payments and pursuant to 11 U.S.C. §362(d)(2) and alleges
5 that, in accordance with the information set forth in the attached Declaration, there is no equity
6 present in the subject real property to justify the continuance of the Automatic Stay. See
7 Stewart v. Gurley 745 F 2d 1194 (9th Cir. 1984).

8
9 This Motion is being heard on 28-day notice, pursuant to LBR 9014-1 (f)(1).
10 Opposition to this motion, if any, shall be in writing and shall be served and filed with the Court
11 at least fourteen (14) calendar days preceding the date of hearing.
12

13 In addition, and in the event that this Court continues the Automatic Stay,
14 Movant will seek adequate protection of its secured interest pursuant to 11 U.S.C. §§ 361 and
15 362, including a requirement that Debtors reinstate all past arrearages and immediately
16 commence regular monthly payments.
17

18 Movant also seeks an Order terminating and vacating the Automatic Stay for all
19 purposes as it pertains to Movant's interest in the subject real Property, including the
20 prosecution of appropriate foreclosure remedies, without the requirement of further notice or
21 publication, except as may be required by state law.
22

23 Movant also seeks an Order waiving the 14-day stay as provided by Bankruptcy
24 Rule 4001(a)(3).
25

In addition, Movant requests such further relief as is just.

26 This Motion is based on these moving papers, as well as the attached Declaration
27 and the Relief from Stay Information Sheet, filed separately and concurrently with this Motion.
28

1 In the event neither the Debtor, Debtor's counsel or Trustee files a timely
2 opposition to this motion, the Court may grant relief from the Automatic Stay permitting
3 moving party to foreclose on the Debtor's property located at **4352 Chico Street, Shasta Lake,**
4 **California** and obtain possession of such property without conducting a hearing.
5

6 WHEREFORE, Movant prays judgment as follows:
7

8 1.) For an Order granting relief from the Automatic Stay, permitting this Movant
9 to move ahead with foreclosure proceedings under Movant's Deed of Trust.
10 2.) For such Order regarding adequate protection of Movant's interest as this
11 Court deems proper.
12 3.) For an Order waiving the 14-day stay described by Bankruptcy Rule
13 4001(a)(3).
14 4.) For such other relief as this Court deems appropriate.

DATED: September 8, 2010

PROBER & RAPHAEL
A LAW CORPORATION

/s/ CASSANDRA J. RICHEY, ESQ. #155721
Attorney for Secured Creditor